

Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

Chapter 407: RESEARCH AND DEVELOPMENT

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Maine Revised Statutes
Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES
Chapter 407: RESEARCH AND DEVELOPMENT

Subchapter 1: MAINE TECHNOLOGY INSTITUTE

§15301. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1999, c. 401, Pt. AAA, §3 (NEW).]

1. Institute. "Institute" means the Maine Technology Institute.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

2. Targeted technologies. "Targeted technologies" means biotechnology, aquaculture and marine technology, composite materials technology, environmental technology, advanced technologies for forestry and agriculture, information technology and precision manufacturing technology. These targeted technologies may be amended only by the Legislature.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

3. SBIR program. "SBIR program" means the small business innovation research program enacted pursuant to the federal Small Business Innovation Development Act of 1982, Public Law 97-219, which provides funds to small businesses to conduct innovation research having commercial application.

[1999, c. 608, §11 (NEW) .]

4. Small business. "Small business" as related to eligibility to participate in the SBIR program is defined pursuant to 13 Code of Federal Regulations, Section 121.

[1999, c. 608, §11 (NEW) .]

SECTION HISTORY

1999, c. 401, §AAA3 (NEW). 1999, c. 608, §11 (AMD).

§15302. MAINE TECHNOLOGY INSTITUTE

1. Establishment. The Maine Technology Institute, as established in section 12004-G, subsection 33-D, is a nonprofit corporation with public and charitable purposes. The duties, activities and operations of the institute are within the provisions of the federal Internal Revenue Code, Section 501(c)(3).

[1999, c. 401, Pt. AAA, §3 (NEW) .]

2. Purpose. The institute, through a public and private partnership, shall encourage, promote, stimulate and support research and development activity leading to the commercialization of new products and services in the State's technology-intensive industrial sectors to enhance the competitive position of those sectors and increase the likelihood that one or more of the sectors will support clusters of industrial activity and to create

new jobs for Maine people. The institute is one element of the State's economic development strategy and will contribute to the long-term development of a statewide research, development and product deployment infrastructure.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

3. Board of Directors of the Maine Technology Institute. The institute is governed and all of its powers exercised by a board of directors, referred to in this chapter as the "board," consisting of 13 voting members and 2 nonvoting members.

A. The Governor shall appoint 10 voting directors, 8 of whom must be representatives of targeted technologies. The other 2 directors must have demonstrated significant experience in finance, lending or venture capital. In making the appointments from targeted technologies, the Governor shall consider recommendations submitted by representatives of targeted technology sectors. Directors of the board appointed by the Governor are entitled to receive reimbursement at the legislative rate for necessary expenses for their attendance at authorized meetings of the board. [2005, c. 425, §19 (AMD) .]

B. The Commissioner of Economic and Community Development or the commissioner's designee, the President of the Maine Community College System or the president's designee and the Chancellor of the University of Maine System or the chancellor's designee are ex officio voting directors. [1999, c. 541, §1 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

C. The Director of the Governor's Office of Policy and Management or the director's designee is an ex officio nonvoting director. [2011, c. 655, Pt. EE, §11 (AMD); 2011, c. 655, Pt. EE, §30 (AFF) .]

D. The Maine Technology Institute Director is a nonvoting director. [1999, c. 401, Pt. AAA, §3 (NEW) .]

[2011, c. 655, Pt. EE, §11 (AMD); 2011, c. 655, Pt. EE, §30 (AFF) .]

4. Terms. Directors of the board appointed by the Governor are appointed for 3-year terms. The terms of the initial appointments are staggered as follows: Three are one-year terms, 3 are 2-year terms and 3 are 3-year terms. Those directors may serve no more than 2 consecutive terms. Directors who serve on the board by virtue of their offices serve terms coincident with their terms in office.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

5. Chair; vice-chair; secretary; treasurer. The board shall elect a chair, a vice-chair, a secretary and a treasurer from among its members. Each officer serves for a one-year term and is eligible for reelection.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

6. President. The Maine Technology Institute Director at the Department of Economic and Community Development serves as president of the institute upon confirmation by the board. Once every 2 years, the Governor shall submit the Maine Technology Institute Director's name to the board for reappointment. Reappointment is subject to confirmation by the board. The president shall:

A. Serve as the liaison between the board and the targeted technology boards; [1999, c. 401, Pt. AAA, §3 (NEW) .]

B. Manage the institute's programs, services and staff; and [1999, c. 401, Pt. AAA, §3 (NEW) .]

C. Perform other duties the board considers appropriate. [1999, c. 401, Pt. AAA, §3 (NEW) .]

[1999, c. 401, Pt. AAA, §3 (NEW) .]

7. Quorum. A majority of the voting directors constitutes a quorum.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

8. Executive committee. The board may elect an executive committee of not fewer than 6 members who, in intervals between meetings of the board, may transact such business of the institute as the board may authorize from time to time.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

9. Annual report. By December 15th of each year, the institute shall provide an annual report, with audited financial reports, on its activities to the joint standing committee or joint select committee of the Legislature having jurisdiction over research and development matters.

[2001, c. 562, §1 (AMD) .]

10. Independent evaluation.

[2009, c. 337, §8 (RP) .]

SECTION HISTORY

1999, c. 401, §AAA3 (NEW). 1999, c. 541, §1 (AMD). 2001, c. 562, §1 (AMD). 2003, c. 20, §002 (AMD). 2003, c. 20, §004 (AFF). 2005, c. 425, §19 (AMD). 2007, c. 466, Pt. B, §2 (AMD). 2009, c. 337, §8 (AMD). 2011, c. 655, Pt. EE, §11 (AMD). 2011, c. 655, Pt. EE, §30 (AFF).

§15302-A. CONFIDENTIALITY; FREEDOM OF ACCESS

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commercial or financial information" means information related to businesses, commerce, trade, employment, profits or finances, including personal finances. [2001, c. 562, §2 (NEW) .]

B. "Grant" means any disbursement of funds through grants or other financial awards to private companies, targeted technology incubators or nonprofit organizations, pursuant to section 15303, as well as any investment of funds, equity investment, securities, loan, contractual arrangement or other evidence of indebtedness authorized by section 15304. [2001, c. 562, §2 (NEW) .]

C. "Trade secret" means a secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort. There must be a direct relationship between the trade secret and the productive process. [2001, c. 562, §2 (NEW) .]

[2001, c. 562, §2 (NEW) .]

2. Proceedings; records; confidentiality. The proceedings of the board and the records of the institute are public for the purposes of Title 1, chapter 13, except that the following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. A record obtained or developed by the board prior to receipt of a written application or proposal in a form acceptable to the board for either financial assistance from the board or in connection with a transfer of property to or from the board. After receipt by the board of the application or proposal, a record pertaining to the application or proposal may not be considered confidential unless it is confidential under another provision of this subsection; [2001, c. 562, §2 (NEW).]

B. A peer review or analysis or other document related to the evaluation of a grant application or proposal; [2001, c. 562, §2 (NEW).]

C. A record that the person, including the institute, to whom the record belongs or pertains has requested be designated confidential and that the institute has determined contains proprietary information, trade secrets or commercial or financial information, the release of which could be competitively harmful to the submitter of the information, could impair the institute's ability in the future to obtain similar necessary information solely through the voluntary provision of such information and could affect other institute interests, such as program effectiveness and compliance; [2001, c. 562, §2 (NEW).]

D. A financial statement, credit report or tax return of an individual or other record obtained or developed by the board, the disclosure of which would constitute an invasion of personal privacy as determined by the board; [2001, c. 562, §2 (NEW).]

E. A record, including a financial statement or tax return obtained or developed by the board in connection with monitoring or servicing activity of the board, pertaining to financial assistance provided or to be provided by or with the assistance of the board; [2001, c. 562, §2 (NEW).]

F. A record obtained or developed by the board that contains an assessment by a person who is not employed by the board of the creditworthiness or financial condition of a person or project; [2001, c. 562, §2 (NEW).]

G. A financial statement or business and marketing plan in connection with a project receiving or to receive financial assistance from the board, if the person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and [2001, c. 562, §2 (NEW).]

H. Those employee personnel records made confidential pursuant to section 957, subsection 5 and section 17057. [2001, c. 562, §2 (NEW).]

[2001, c. 562, §2 (NEW).]

3. Wrongful disclosure prohibited. A member, officer, employee, agent, other representative of the board or other person may not knowingly divulge or disclose records declared confidential by this section, except that the board may, in its discretion, make or authorize a disclosure of impersonal, statistical or general information or may make or authorize disclosure of information:

A. If necessary in connection with processing an application for or obtaining or maintaining financial assistance for a person or in connection with acquiring, maintaining or disposing of property; [2001, c. 562, §2 (NEW).]

B. To a financing institution or credit reporting service; [2001, c. 562, §2 (NEW).]

C. If necessary to comply with any federal or state law or rule or with an agreement pertaining to financial assistance; [2001, c. 562, §2 (NEW).]

D. If necessary to ensure collection of an obligation in which the board has or may have an interest; [2001, c. 562, §2 (NEW).]

E. Obtained from records declared confidential by this section for introduction for the record in litigation or a proceeding in which the board has appeared; or [2001, c. 562, §2 (NEW).]

F. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as the order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as the order appears on its face or otherwise to have been issued or made upon lawful authority. [2001, c. 562, §2 (NEW).]

[2001, c. 562, §2 (NEW).]

4. Public information. Notwithstanding subsection 2, the institute shall make available the following information upon request:

A. Names and addresses of recipients of or applicants for financial assistance, including principals where applicable; [2001, c. 562, §2 (NEW).]

B. Amounts, types and terms of financial assistance provided to recipients or requested by applicants, including, without limitation, repayment period, security and rights of the institute to receive royalties and other payments, if any; [2001, c. 562, §2 (NEW).]

C. General descriptions of projects and businesses benefiting or to benefit from financial assistance; [2001, c. 562, §2 (NEW).]

D. Names of transferors or transferees, including principals, of property to or from the institute, the general terms of transfer, the transfer instrument or agreement and the purposes for which the transferred property will be used; [2001, c. 562, §2 (NEW).]

E. Number of new jobs created, the number of patents and copyrightable works produced, information identifying the patents and registered copyrightable works produced, the amount of royalties or returns on equity investments received by the institute or the amount of repayments received by the institute in connection with institute grants, except for information that would place a recipient of or an applicant for financial assistance at a competitive disadvantage; [2001, c. 562, §2 (NEW).]

F. Policies concerning institute governance, operations or procedures for review or funding of applications; and [2001, c. 562, §2 (NEW).]

G. Any information pursuant to waiver considered satisfactory by the institute. [2001, c. 562, §2 (NEW).]

[2001, c. 562, §2 (NEW).]

5. Construction. This section must be strictly construed to protect the confidentiality of all documents designated as confidential, the confidentiality of which is essential to the technology development purpose of the institute and to the confidence of the private sector in the institute and its mission.

[2001, c. 562, §2 (NEW).]

SECTION HISTORY

2001, c. 562, §2 (NEW).

§15303. DUTIES OF INSTITUTE

1. Fiscal agent for public investments in private research and development. The institute is the fiscal agent of the State for all funds appropriated or allocated to the institute. Fiscal duties include the disbursement of funds through grants to private companies, targeted technology incubators and nonprofit research laboratories. Other duties include the accounting, evaluation and monitoring of all activities of the institute and all programs funded in whole or in part by grants from the institute. The institute may fund necessary precursors to commercialization of products and services, including the development of new technologies and processes, the development of product concepts and the manufacture of prototypes.

[1999, c. 401, Pt. AAA, §3 (NEW).]

2. Targeted technology boards. The institute shall work directly with and provide staffing to targeted technology sectors to stimulate and manage the research and development grant process in private companies through technology-specific boards, which are subsidiaries of the board consisting of private sector representatives, scientists and others determined appropriate by representatives of the targeted technology sectors. If the institute's board determines it necessary, the institute shall provide start-up organizational and development grants to those targeted technology sectors. Each technology board may establish goals and objectives for its sector based on state economic development goals, establish research and development priorities, help companies network with each other and advise them on funding opportunities and on the availability of other support services, prepare criteria by which to evaluate proposals, solicit and receive competitive funding proposals, arrange for peer reviews and screen proposals and select those to be forwarded to the board for final evaluation. The board may delegate, based on conditions it determines appropriate, partial or full regranteeing authority to those technology boards that have demonstrated capacity to execute grants that are likely to lead to commercialization of a new technology or product.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

3. Measures of performance. The institute shall develop quantifiable measures of performance to which it will hold all grantees accountable, including, but not limited to, the number of new jobs created by the grant, the amount of sales generated, the number of patents produced and the amount of corporate income taxes paid, and shall require all grantees to report regularly to the institute on those measures during the grant period and for 5 years following the end of the grant period.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

4. Adoption of bylaws. The institute shall adopt bylaws, through the board, consistent with this chapter for the governance of its affairs.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

5. Employees. The institute shall fix, through the board, the compensation of all employees of the institute.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

6. Cooperation with associated organizations and the University of Maine System. The institute, in implementing its powers and duties:

A. Shall foster strategic considerations of economic development in the allocation of resources among the targeted technology sectors and promote activities that cut across technologies and achieve competitive advantages for Maine; [1999, c. 401, Pt. AAA, §3 (NEW).]

B. Shall ensure that the institute's programs reflect the policies as described in the State's science and technology plan developed by the Maine Science and Technology Foundation and consult with the Maine Science and Technology Foundation in the formation of those programs; [1999, c. 401, Pt. AAA, §3 (NEW).]

C. Shall collaborate with the University of Maine System on the development and annual update of an outcome-based 5-year technology plan that integrates private sector commercialization in the targeted technologies with university-sponsored research and development; [1999, c. 401, Pt. AAA, §3 (NEW).]

D. Shall coordinate its priorities with the applied research and development efforts of the University of Maine System insofar as those efforts are in the targeted technologies and encourage, when possible and appropriate, companies and research laboratories receiving funds from the institute to establish joint ventures with the university system; and [1999, c. 401, Pt. AAA, §3 (NEW).]

E. Shall cooperate with the Department of Economic and Community Development, the Maine Science and Technology Foundation, the Maine Manufacturing Extension Program, the University of Maine System and others in their efforts to ensure that a complementary system of support services, including, as needed and appropriate, incubators, business assistance, technology transfer, market research, patent research and similar services, is in place and available to companies and research laboratories receiving funds from the institute. [1999, c. 401, Pt. AAA, §3 (NEW).]

[1999, c. 401, Pt. AAA, §3 (NEW) .]

6-A. SBIR technical assistance program. The institute shall establish a program to provide technical assistance to small businesses based in the State, pursuant to the federal Small Business Innovation Development Act of 1982, Public Law 97-219, to develop competitive small business innovation research, or SBIR, proposals for submission to any of the federal agencies participating in the SBIR program.

A. The technical assistance program may include, but is not limited to, small grants to hire grant writers, networking with scientists and other successful SBIR awardees, seminars on agency-specific solicitations and grant writing. [1999, c. 608, §12 (NEW).]

B. The institute shall conduct a program to inform small businesses of the federal SBIR program and the state program in order to ensure that all firms have the opportunity to participate in these programs. [1999, c. 608, §12 (NEW).]

C. The institute shall establish eligibility requirements and award selection criteria to serve as the basis for technical assistance funding under this program. [1999, c. 608, §12 (NEW).]

This subsection is in effect if, and as long as, federal financial participation is available pursuant to the federal Small Business Innovation Development Act of 1982.

[1999, c. 608, §12 (NEW) .]

6-B. Maine Biomedical Research Board. The institute shall contract with the Maine Biomedical Research Board as established in section 12004-G, subsection 4-B to provide assistance in fulfilling the board's duties as the board may require.

[2001, c. 196, §10 (NEW) .]

6-C. Administer funds. The institute shall administer the Maine Technology Capacity Fund established under section 15303-A.

[2003, c. 20, Pt. RR, §6 (NEW); 2003, c. 20, Pt. RR, §18 (AFF) .]

7. Other duties. The institute shall do all things necessary or convenient to carry out the lawful purposes of the institute under this chapter.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

SECTION HISTORY

1999, c. 401, §AAA3 (NEW). 1999, c. 608, §12 (AMD). 2001, c. 196, §10 (AMD). 2003, c. 20, §RR6 (AMD). 2003, c. 20, §RR18 (AFF).

§15303-A. MAINE TECHNOLOGY CAPACITY FUND

The Maine Technology Capacity Fund is established within the institute to strengthen employment opportunities in the State by increasing the science and technology investment level through partnerships among the State Government, private enterprise, the Federal Government and private and public research institutions. The fund may be used to match public and private funds that provide program or consulting resources to targeted technology sectors to increase their capacity to develop into industry clusters. The fund

may also be used to support best-practice studies or to provide technical assistance on a contractual basis to enhance the capacity of the targeted technology sectors to develop into industry clusters. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Enterprise" means a firm doing business in this State that is engaged or proposes to be engaged in this State in value-added agricultural, natural resource-based or other manufacturing, research and development, or in the provision of knowledge-based services. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

B. "Fund" means the Maine Technology Capacity Fund account in the Other Special Revenue funds. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

C. "Intellectual property" means any legally protectable materials, including new information, technologies, inventions, designs, works of authorship, any strain, variety or culture of an organism, or any portion, modification, translation or extension of these items, and processes, mineral discoveries and other legally protectable materials, including know-how and trade secrets, that are generated as a direct and indirect result of investments made by the institute through contracts, grants or any other legal agreement. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

D. "Protection of intellectual property rights" means protecting the institute's rights to intellectual property through intellectual property protection mechanisms, including, but not limited to, patents, copyrights, trademarks, trade secrets and licensing rights. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

E. "Technology commercialization" means the process of bringing an investment-grade technology out of an enterprise or a private or public laboratory for first-run application in the marketplace. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

F. "Technology development" means strategically focused research aimed at developing investment-grade technologies essential to market competitiveness. For purposes of this section, "technology development" does not refer to basic research, but rather to products, devices, techniques or processes that have advanced beyond the theoretical stage and are in a prototype or industry practice stage. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

G. "Technology extension" means the introduction and adaptation of off-the-shelf technologies and state-of-the-art management practices to the specific circumstances of individual firms. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

[2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

2. Organization. The board has all the powers and authority, not explicitly prohibited by law, necessary or convenient to carry out and effectuate the functions, duties and responsibilities of the fund, including, but not limited to:

A. Taking actions in partnership with private enterprise, the Federal Government and private and public research institutions to:

- (1) Increase the rate of technology extension across manufacturing and knowledge-based firms throughout the State;
- (2) Increase the amount of technology development occurring in the State; and
- (3) Increase the rate at which technologies with potential commercial application are moved out of private and public laboratories into the marketplace; [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

B. Soliciting, borrowing, accepting and receiving money from any public or private source to augment state contributions to the fund; [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

C. Approving an annual budget for the fund and investing and expending money from the fund; [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

D. Contracting with public entities as necessary to further the purposes of this section; [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

E. Carrying forward any unexpended state appropriations into succeeding fiscal years; [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

F. Providing an annual report to the Governor and the Legislature by January 1st of each regular session of the Legislature within the annual report of the institute, setting forth:

(1) The operations and accomplishments of the fund during the fiscal year; and

(2) The assets and liabilities of the fund at the end of its most recent fiscal year; [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

G. Owning intellectual property, licensing intellectual property and negotiating for and collecting royalty rights or otherwise realizing a return on investment made under the fund and all programs of the institute when appropriate in order to promote the interests and investments of the State in furthering science and technology; and [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

H. Protecting all proprietary information contained in proposals, contracts and grants or any other legal agreement only when such information is likely to involve patentable material that loses its protectable nature when presented in a public forum. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

[2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF) .]

3. Authorized activities. The board may:

A. Receive and accept from any source allocations, appropriations, grants or contributions of money to be held, used or applied to carry out this subchapter, subject to the conditions upon which the grants and contributions may be made, including, but not limited to, appropriations, allocations, grants or gifts from any federal agency or governmental subdivision or the State and its agencies. The amounts of the revenues generated by the investment of money contained in the fund may be used to pay the institute's operating expenses associated with the operation of the fund; and [2007, c. 1, §2 (COR).]

B. Engage in matching grants activities, including, but not limited to, federal, private and foundation awards for technology extension, science and technology development and technology commercialization activities that require state funding matches and are considered consistent with the purposes of the fund. Focus areas for investment include, but are not limited to, targeted technologies as defined in section 15301. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

[2007, c. 1, §2 (COR) .]

4. Guidelines. The board shall establish guidelines for:

A. The amounts of the revenues generated by the investment of money in the fund that may be used to pay the institute's operating expenses associated with the operation of the fund; and [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

B. Cash and in-kind match requirements based on the activities to be supported with the fund. The institute shall strive to achieve a minimum match of 1:1, on an annual basis, for matching grant activities supported under the fund. [2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF).]

[2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF) .]

5. Liquidation and dissolution. In the event of liquidation or dissolution of the institute or the fund, any rights or interests in a qualified security or portion of a qualified security purchased with money invested by the State vest in the State. The State is entitled to, in proportion to the amount of investment in the fund by the State, any balance of money remaining in the fund after payment of all debts and obligations upon liquidation or dissolution of the institute or the fund.

[2003, c. 20, Pt. RR, §7 (NEW); 2003, c. 20, Pt. RR, §18 (AFF) .]

SECTION HISTORY

2003, c. 20, §RR7 (NEW). 2003, c. 20, §RR18 (AFF). RR 2007, c. 1, §2 (COR).

§15304. POWERS OF INSTITUTE

The institute may: [1999, c. 401, Pt. AAA, §3 (NEW).]

1. Suit. Sue or be sued in its own name;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

2. Application for and receipt of funds. Apply for and receive funds from any private source or governmental entity, whether by way of grant, donation or loan or in any other manner. The State Controller shall pay the institute's total state allotment for each fiscal year to the institute on July 1st of that year, and these funds are nonlapsing;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

3. Invest funds. Invest, reinvest and use on behalf of the institute for any of its purposes funds received from any source for carrying out this chapter, including the use of funds for program and administrative costs, and expend interest earnings on those funds as appropriate to implement this chapter;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

4. Real and personal property. Purchase, seek, receive, hold, lease, acquire by foreclosure, operate, manage, license, sell, convey, transfer, grant or lease real and personal property, together with those rights and privileges that may be incidental and appurtenant to the property and the use of the property, including, but not limited to, any real or personal property acquired by the institute from time to time in the satisfaction of debts or enforcement of obligations;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

5. Expenditures and obligations regarding real and personal property. Make all expenditures and incur any obligations reasonably required in the exercise of sound business principles to secure possession of, preserve, maintain, insure and improve real and personal property or interests in real and personal property acquired by the institute;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

6. Securities. Acquire, subscribe to, own, hold, sell, assign, transfer, mortgage or pledge the stock, shares, bonds, debentures, notes or other securities and evidences of interest in or indebtedness of any person, firm, corporation, joint stock company, partnership, association or trust and, while the owner or holder thereof, exercise all the rights, powers and privileges of ownership, including the right to vote;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

7. Encumbrance of property. Mortgage, pledge or otherwise encumber any property right or thing of value acquired pursuant to the powers contained in subsection 3, 4 or 5 as security for the payment of any part of the purchase price of the property right or thing of value;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

8. Equity investments; loans; contractual arrangements. In addition to disbursement of funds through grants as described in section 15303, make alone or in participation or cooperation with others direct equity investments in, loans to or any other contractual arrangement allowed by law with private companies, targeted technology incubators and nonprofit research laboratories for the same purposes for which grants may be made. For each disbursement of funds made by the institute, the institute shall require satisfactory evidence of matching funds in cash in an amount equal to the state funds invested in whatever form by the institute in eligible recipients. Matching funds may be in the form of debt or equity, but must be at risk in the business for a minimum of 5 years;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

9. Royalties. Establish and execute a policy on royalties;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

10. Employees; contracts and liabilities. Hire and compensate employees, make contracts for goods or services and incur liabilities with respect to the same with any entity for any of the purposes described by those contracts and authorized by this chapter;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

11. Debt. Borrow money for any of the purposes authorized in this chapter, incur debt, which includes the issuance of bonds, debt, notes or other evidences of indebtedness, whether secured or unsecured, and secure the same by mortgage, pledge, deed of trust or other lien on the institute's property, rights and privileges of every kind and nature or any part of or interest in any of them;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

12. Seal. Have and use a corporate seal;

[1999, c. 401, Pt. AAA, §3 (NEW) .]

13. Pension plans; insurance. Establish and carry out pension plans, profit sharing plans and other retirement, incentive or insurance plans for any of its employees; and

[1999, c. 401, Pt. AAA, §3 (NEW) .]

14. Other powers. Act or do anything necessary or useful for carrying out any of its powers, duties or purposes.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

SECTION HISTORY

1999, c. 401, §AAA3 (NEW).

§15305. LIMITATION OF POWERS

The institute may not enter into contracts, obligations or commitments of any kind on behalf of the State or any of its agencies, nor does it have the power of eminent domain or any other power not provided to business corporations generally. Bonds, notes and other evidences of indebtedness of the institute may not in any way be a debt or liability of the State or constitute a pledge of the faith and credit of the State. The institute may not expend more than 10% of funds appropriated per biennium by the State for management and related operating costs of the institute. [2013, c. 225, §1 (AMD).]

SECTION HISTORY

1999, c. 401, §AAA3 (NEW). 2013, c. 225, §1 (AMD).

§15306. LIABILITY OF OFFICERS, DIRECTORS AND EMPLOYEES

All officers, directors, employees and other agents of the institute entrusted with the custody of the securities of the institute or authorized to disburse the funds of the institute must be bonded either by a blanket bond or by individual bonds with a minimum limitation of \$100,000 coverage for each person covered by the bond or bonds, or equivalent fiduciary liability insurance, conditioned upon the faithful performance of their duties. The premiums for the bond or bonds must be paid out of the assets of the institute. [2005, c. 425, §20 (AMD).]

SECTION HISTORY

1999, c. 401, §AAA3 (NEW). 2005, c. 425, §20 (AMD).

§15307. PROHIBITED INTERESTS OF OFFICERS, DIRECTORS AND EMPLOYEES

An officer, director or employee of the institute or a spouse or dependent child of any of those individuals may not receive any direct personal benefit from the activities of the institute in assisting any private entity. This section does not prohibit corporations or other entities with which an officer or director is associated by reason of ownership or employment from participating in science and technology activities with the institute if ownership or employment is made known to the board and the officer or director abstains from voting on matters relating to that participation. This prohibition does not extend to corporators who are not officers or directors of the institute. [1999, c. 401, Pt. AAA, §3 (NEW).]

SECTION HISTORY

1999, c. 401, §AAA3 (NEW).

§15308. GENERAL CONDITIONS; DISSOLUTION

The institute shall operate as a nonprofit organization consistent with its composition and broad public purposes. The following conditions apply to the operation or dissolution of the institute. [1999, c. 401, Pt. AAA, §3 (NEW).]

1. Net earnings of institute. No part of the net earnings of the institute may benefit any member, officer, director or employee except that the institute may pay reasonable compensation for services rendered and otherwise hold, manage and dispose of its property in furtherance of the purposes of the institute.

[1999, c. 401, Pt. AAA, §3 (NEW) .]

2. Dissolution of institute.

[2005, c. 425, §21 (RP) .]

SECTION HISTORY

1999, c. 401, §AAA3 (NEW). 2005, c. 425, §21 (AMD).

§15309. LIBERAL CONSTRUCTION

This chapter must be construed liberally to effect the interest and purposes of the institute for an improved science and technology capacity-building effort in the State and must be broadly interpreted to effect that intent and those purposes. [1999, c. 401, Pt. AAA, §3 (NEW).]

SECTION HISTORY

1999, c. 401, §AAA3 (NEW).

§15310. MAINE TECHNOLOGY INSTITUTE DIRECTOR

(REALLOCATED FROM TITLE 5, SECTION 13070-N)

1. Appointment. The Governor shall appoint, using a full and competitive search process and after giving proper consideration to the qualifications in subsection 3, a full-time Maine Technology Institute Director, referred to in this section as the "director," subject to review by the joint standing committee or joint select committee of the Legislature having jurisdiction over research and development matters and to confirmation by the Legislature, who serves at the pleasure of the Governor. The director shall report to the commissioner in the execution of the director's responsibilities.

[1999, c. 708, §3 (RAL) .]

2. Duties. The director serves as the president of the Maine Technology Institute upon confirmation by the institute's board of directors. The director shall oversee activities of the institute and has the duties and responsibilities provided in chapter 407.

[1999, c. 708, §3 (RAL) .]

3. Qualifications. The director must have demonstrated experience in the management of organizations that innovate, commercialize and deploy technology and expertise in integrating technology commercialization and deployment with economic development.

[1999, c. 708, §3 (RAL) .]

SECTION HISTORY

1999, c. 708, §3 (RAL).

§15311. FUNDING FOR RESEARCH AND DEVELOPMENT

For fiscal years 2003-04 and 2004-05 only, the Governor shall submit a funding level recommendation for operational costs of applied research and development. The recommendation must be transmitted to the Legislature within the time schedules set forth in section 1666. If the Governor submits legislation setting forth appropriations for operational costs of applied research and development that differ from the equivalent

of not less than 2% of total actual General Fund revenue of the previous fiscal year, the Governor shall simultaneously submit a report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and research and development matters explaining why the Governor's budget legislation differs from the equivalent of not less than 2% of total actual General Fund revenue of the previous fiscal year. [2001, c. 559, Pt. MM, §1 (NEW).]

SECTION HISTORY

2001, c. 559, §MM1 (NEW).

Subchapter 2: TECHNOLOGY CENTERS

§15321. TECHNOLOGY CENTERS

(REPEALED)

SECTION HISTORY

1999, c. 731, §UUU3 (NEW). 2001, c. 471, §§A8,9 (AMD). 2001, c. 562, §3 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2005, c. 19, §4 (AMD). 2007, c. 597, §7 (AMD). 2009, c. 90, §2 (AMD). 2009, c. 369, Pt. A, §19 (RP). 2011, c. 691, Pt. C, §3 (RP).

Subchapter 3: TECHNOLOGY CENTERS

§15322. TECHNOLOGY CENTERS

1. Establishment; purpose. The technology centers, referred to in this section as "the centers," are established. The purpose of the centers is to support early-stage development of technology-based businesses. The self-managed, state-coordinated centers, strategically placed throughout the State, are an integral component of the State's efforts to foster new technology-based businesses. The goals of the centers include the following:

- A. The retention of successful start-up businesses in the State; [2011, c. 691, Pt. C, §4 (NEW).]
- B. The improvement of opportunities for workers through the creation of technologically advanced jobs; and [2011, c. 691, Pt. C, §4 (NEW).]
- C. The encouragement of private-sector initiatives. [2011, c. 691, Pt. C, §4 (NEW).]

[2011, c. 691, Pt. C, §4 (NEW) .]

2. Administration. The following provisions govern the administration of the centers.

- A. Each technology center is governed by its own board of directors. Each board of directors shall determine services to be provided pursuant to subsection 3, paragraph C. [2011, c. 691, Pt. C, §4 (NEW).]
- B. The Department of Economic and Community Development shall determine assistance criteria and desired program outcomes and establish an application process so that technology centers possessing personnel with applicable skills can be chosen to best deliver services to technology-based entrepreneurs within a respective area. [2011, c. 691, Pt. C, §4 (NEW).]

[2011, c. 691, Pt. C, §4 (NEW) .]

3. Technology centers. The following provisions govern technology centers.

- A. A technology center may be incorporated as a nonprofit organization, be part of a nonprofit organization, be incorporated as a for-profit organization or be part of a for-profit organization. The following provisions govern a for-profit technology center.

(1) Services made available to a technology center by the center director must be made available to all clients of a for-profit center.

(2) A for-profit center in a targeted technology may apply for available funding. A for-profit center selected for funding shall accept the funding as a loan that may be paid back in the form of cash, equity or royalties as agreed upon by the for-profit center and the Department of Economic and Community Development. [2011, c. 691, Pt. C, §4 (NEW).]

B. The records and proceedings of the technology centers are public for the purposes of Title 1, chapter 13 except that the following records are designated as confidential for the purposes of Title 1, section 402, subsection 3, paragraph A:

(1) A record obtained or developed by a technology center prior to receipt of a written application or proposal in a form acceptable to the technology center for assistance from the technology center. After receipt by the technology center of the application or proposal, a record pertaining to the application or proposal may not be considered confidential unless it is confidential under another provision of this paragraph;

(2) A peer review or analysis or other document related to the evaluation of a grant application or proposal;

(3) A record that the person, including the technology center, to whom the record belongs or pertains has requested be designated confidential and that the technology center has determined contains proprietary information, trade secrets or commercial or financial information, the release of which could be competitively harmful to the submitter of the information, could impair the technology center's ability in the future to obtain similar necessary information solely through the voluntary provision of such information and could affect other technology center interests, such as program effectiveness and compliance. For purposes of this subparagraph, the following terms have the following meanings.

(a) "Commercial or financial information" means information related to businesses, commerce, trade, employment, profits or finances, including personal finances.

(b) "Trade secret" means a secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort. There must be a direct relationship between the trade secret and the productive process;

(4) A financial statement, credit report or tax return of an individual or other record obtained or developed by the technology center, the disclosure of which would constitute an invasion of personal privacy as determined by the technology center;

(5) A record, including a financial statement or tax return obtained or developed by the technology center in connection with a monitoring or servicing activity of the technology center, pertaining to financial assistance provided or to be provided by or with the assistance of the technology center;

(6) A record obtained or developed by the technology center that contains an assessment by a person who is not employed by the technology center of the creditworthiness or financial condition of a person or project;

(7) A financial statement or business and marketing plan in connection with a project receiving or to receive financial or other assistance from the technology center, if the person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and

(8) Those employee personnel records made confidential pursuant to section 957, subsection 5 and section 17057. [2011, c. 691, Pt. C, §4 (NEW).]

C. The technology centers shall provide support for early-stage technology-based businesses in the State through at least one of the following mechanisms:

(1) One-on-one sessions;

- (2) Peer networks;
- (3) Classroom training on subjects unique to technology commercialization and the management of high-growth enterprises;
- (4) Mentor programs that link senior technology executives with entrepreneurs; and
- (5) Networking opportunities. [2011, c. 691, Pt. C, §4 (NEW).]

[2011, c. 691, Pt. C, §4 (NEW) .]

4. Funding. The following provisions govern funding for technology centers.

A. Funding for the technology centers must be commensurate with the level of assistance provided.

[2011, c. 691, Pt. C, §4 (NEW).]

B. All funding must be provided on a competitive basis. [2011, c. 691, Pt. C, §4 (NEW) .]

[2011, c. 691, Pt. C, §4 (NEW) .]

5. Relationship with academic institution. A technology center shall establish a relationship with at least one academic institution in this State. The Department of Economic and Community Development shall establish guidelines for such a relationship and determine whether a technology center has met the requirements of this subsection.

[2011, c. 691, Pt. C, §4 (NEW) .]

6. Rule-making authority. The Department of Economic and Community Development may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

[2011, c. 691, Pt. C, §4 (NEW) .]

SECTION HISTORY

2011, c. 691, Pt. C, §4 (NEW) .

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